

MT LEGISLATIVE HISTORY

Chapter 142 19 85

Bill H (S) 42

Original bill & hist. C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Mar 11 ✓ C

Hearing Date(s) Jan 08 ✓ C

 C

Jan 12 ✓ C

 C

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Date Out Mar 11 ✓ C

Jan 12 ✓ C

Did this bill originate in an interim committee? Yes No

Committee

Report

HOUSE TAXATION

COMMITTEE

49th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 46	To raise from \$100 to \$200 the minimum annual tax liability triggering mandatory waiver of requirements for filing quarterly special fuels tax return	1-18-85	Towe	3-13-85	DO PASS	3-13-85
HJR 9	To establish an estimate of the state's anticipated revenue for purpose of achieving a balanced budget	1-19-85	Waldron	1-23-85	DO PASS, AS AMENDED	2-12-85
SB 42	To establish specific procedures for determining state state individual income tax net operating loss deduction	1-19-85	Towe	3-11-85	DO PASS	3-11-85
SB 47	To include income from subchapter S Corporations in definition of earned income	1-19-85	Towe	3-14-85	TALBED 3-18-85	
HB 287	To revise the business investment credit allowed to MT taxpayers, increasing the credit to 30% of federal credit	1-21-85	Moore/Goodover	3-22-85	TABLED 3-26-85 p.m.	
HB 307	Providing a fee in lieu of property tax for motorboats 16' long or longer	1-21-85	Menahan	1-29-85	DO NOT PASS	2-7-85

Taxation Committee
March 11, 1985
Page Four

Mr. Morrison responded that this was in the revenue projections that the budget office prepared as it was subject to be taxed in the 1984 tax year and if this is changed, it is going to be a reduction in revenue.

There were no further questions.

Senator Hager noted that in the federal system, the money that is taken from social security benefits goes back into the social security system, but in Montana, this money goes back into the general fund; and the \$3.1 million is paid by the social security recipients.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 701: Mr. Bohyer distributed proposed amendments to this bill (Exhibit 5) and explained these amendments.

Representative Williams moved the adoption of these amendments.

Representative Sands asked if these amendments would delay the effective date of this bill and the response was that it might delay it but it would not preclude it. There was some discussion and Representative Williams withdrew his motion.

CONSIDERATION OF SENATE BILL 42: Senator Towe said that this bill was at the request of the Revenue Oversight Committee and the Department of Revenue and establishes the procedures for determining a net operating loss. He informed the committee that because the federal law is different, this needs to be changed and it just does what everyone has been doing all along.

PROPOSERS: Ken Morrison, representing the Department of Revenue, stated that this bill will clear up an area that has been in question for some time.

There were no further proponents.

OPPOSERS: There were none.

Taxation Committee
March 11, 1985
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QUESTIONS ON SENATE BILL 42: Representative Ream asked if this is for one individual business with a net operating loss.

Senator Towe responded that this is for an individual business and is not for corporate license tax.

Representative Sands asked if they have a fiscal note on this and Senator Towe replied that it would have no effect on revenue.

There were no further questions, Senator Towe closed and the hearing on this bill was closed.

CONSIDERATION OF SENATE BILL 43: Senator Towe indicated that this bill was requested by the Department of Revenue and the Revenue Oversight Committee and he explained the problems concerning subchapter S corporations.

PROPOSERS: Ken Morrison, representing the Department of Revenue, distributed and explained to the committee Exhibit 5.

There were no further proposers.

OPPOSERS: There were none.

QUESTIONS ON SENATE BILL 43: Representative Asay asked about the effects of this bill.

Senator Towe responded that he thought that it would affect very few taxpayers and what the government has done is to try to keep corporations from shifting to get out of paying taxes. He commented that it was only in the years after they shifted that they would be eligible and it affects very few and the impact is small, but it is a loophole.

Representative Switzer asked some question on Exhibit 5.

There were no further questions, Senator Towe closed and the hearing on this bill was closed.

Taxation Committee
March 11, 1985
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Chairman Devlin advised that, with no objection, the vote would be reversed and this bill was a DO NOT PASS, AS AMENDED.

DISPOSITION OF SENATE BILL 42: Representative Hanson moved that this bill BE CONCURRED IN. The motion carried with Representative Gilbert and Representative Switzer voting no.

DISPOSITION OF SENATE BILL 43: Representative Harp moved that this bill BE CONCURRED IN.

Representative Asay and Representative Sands both indicated that they would like to have some more information on this bill.

Representative Asay made a substitute motion that they pass consideration for the day. The motion carried unanimously.

DISPOSITION OF SENATE BILL 72: Representative Switzer moved that this bill BE CONCURRED IN.

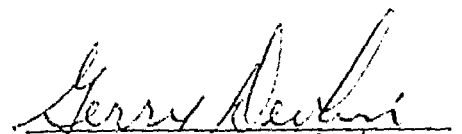
Representative Asay made a motion to adopt the amendments. Representative Sands made a substitute motion to adopt amendments #1 and #3. After some discussion, he withdrew that motion.

Representative Switzer made a substitute motion to not adopt the amendments. The motion carried unanimously.

Representative Switzer moved that this bill BE CONCURRED IN. The motion passed with Representatives Ream, Williams, Cohen, Ellison, Devlin and Gilbert voting no.

Chairman Devlin assigned Representative Williams to carry SB 37 on the floor of the House; Representative Switzer - SB 72 and Representative Hanson - SB 42.

ADJOURNMENT: There being no further business, the meeting adjourned at 10:45 a.m.


GERRY DEVLIN, Chairman


Alice Omang, Secretary

DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 11, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS	X		
KEENAN, NANCY		X	
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		

STANDING COMMITTEE REPORT

March 11, 1935

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 42

third reading copy (blue color)

AN ACT ESTABLISHING SPECIFIC PROCEDURES FOR DETERMINING A STATE
INDIVIDUAL INCOME TAX NET OPERATING LOSS DEDUCTION;

Respectfully report as follows: That SENATE Bill No. 42

BE CONCURRED IN
~~BY THE~~

CHAIRMAN--TOWE, TOM

NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: M-TU-W-TH-F

TIME: 8:00-10:00 A.M.

SECRETARY-AAGENES, NANCY

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0042	1/07	1/08	1/12	PASS AS AMENDED		1/12
TOWE, THOMAS E.			INDIVIDUAL INCOME TAX NET OPERATING LOSS DEDUCTION			
SB0043	1/07	1/11	1/11 1/18 1/22	DO PASS		1/22
TOWE, THOMAS E.			SMALL BUSINESS CORP INCOME; INCLUDE IN MONT. INCOME PORTION THAT ESCAPES TAX			
SB0044	1/07	1/08		DO PASS		1/11
TOWE, THOMAS E.			INCOME TAX; NONRESIDENT INTEREST ON INSTALLMENT SALE OF BUSINESS PROPERTY			
SB0046	1/07	1/10		DO PASS		1/11
TOWE, THOMAS E.			RAISE TAX THRESHOLD FOR SPECIAL FUEL USERS QUARTERLY FILING WAIVER TO \$200			
SB0047	1/07	1/08	1/12	PASS AS AMENDED		1/12
TOWE, THOMAS E.			CHANGE THE DEFINITION OF EARNED INCOME TO INCLUDE SUBCHAPTER S CORP. INCOME			
SB0048	1/10	1/15	1/15 1/16 1/17 1/19 1/20, 2/1, 2/2, 2/3, 2/4, 2/6	PASS AS AMENDED		2/6
TOWE, THOMAS E.			GEN. REVISE PROPERTY TAX CLASSIFICATION TO COMPLY WITH FED. LAW; 12 CLASSES			
SB0049	1/07	1/10	1/10 1/12 1/22 1/23	PASS AS AMENDED		1/22
BROWN, BOB			COLLECTION OF DELINQUENT TAXES AND OTHER FUNDS DUE THE STATE			
SB0051	1/07	1/10	1/10 1/12 1/22 1/23	PASS AS AMENDED		1/23
BROWN, BOB			INCREASING PENALTY FOR VIOLATION OF INCOME TAX LAW			
SB0052	1/08	1/24	1/25	TABLED		1/26
CRIPPEN, BRUCE D.			REVISING ALL-BEVERAGES LICENSE TRANSFERS AND CATERING PROVISIONS			
SB0053	1/08	1/24	1/25, 1/26	PASS AS AMENDED		1/26
CRIPPEN, BRUCE D.			WAIVER OF CATERING ENDORSEMENT AND SPECIAL PERMIT FILING REQUIREMENTS			
SB0055	1/07				JUDICIARY	
TOWE, THOMAS E.			LIMITING TIME TO CHALLENGE VALIDITY OF COUNTY'S MINERAL INTEREST - TAX DEED			

January 8, 1985

Senator Towe asked how long grain is normally held. Senator Aklestad explained various loan categories and said that a large percentage of the crop is held more than seven months.

Mark Rasmussen explained that a producer must take a loan for nine months and does not receive any storage payment for that initial time.

Senator McCallum asked about revenue loss to Yellowstone County as a result of loss of business inventory taxes. Senator Eck asked Mr. Groepper to find which counties would be highly effected.

Mr. Williams pointed out that during the last two years farmers built additional storage for farmer-owned reserves at the government's incentive. This would affect the fiscal note as there is currently increased storage. He also wanted the committee to know that the bins are taxed as property regardless of whether grain is stored in them.

Senator Aklestad concluded by asking the committee not to dwell on the loan programs but on the issue of whether a farmer's inventory should be taxed.

Senator Towe thanked those testifying on SB 32 and concluded the hearing on the bill. He asked Senator Mazurek to take the chair for hearing on SB 42, SB 44 and SB 47.

CONSIDERATION OF SB 42: Senator Tom Towe, District 46, was recognized as sponsor of the bill. He explained that it was introduced at the request of the Department of Revenue with the endorsement of the Revenue Oversight Committee. The bill deals with the net operating loss computation for individuals. He recognized Ken Morrison representing the Department of Revenue to speak on the bill. Mr. Morrison explained that the computation of net operating losses has been done by an informal arrangement with no statutory authority. This bill is to statutorily recognize the current policy. In recognizing some omissions Mr. Morrison said the Department would suggest amendments to the bill.

PROPOSERS

There were no further proposers to SB 42.

OPPOSERS

There were no opposers to SB 42.

Questions from the committee were called for.

Senator McCallum indicated concern about the amendments. Mr. Morrison said they would involve the deduction of federal tax on the state return and allowances related to the licensed

vehicle fee.

Senator Goodover asked how it would operate differently from the status quo. Mr. Morrison said that there are no drastic changes, it would only make current practice understandable to new accountants and out-of-state accountants looking at Montana law. Senator Goodover asked about the effect of congressional changes in deductions of state tax from federal returns. Mr. Morrison said that the state would likely piggy-back federal changes.

Senator Mazurek begged leave to ask Clark Pyfer, present in the committee room, his opinion of the bill. Mr. Pyfer said he would trust Mr. Morrison's testimony and would applaud making Montana law correspond to the federal law.

Senator Towe said that the merit for the bill rested with enforcement power for the Department of Revenue.

Senator Goodover asked if the bill would increase taxes. Senator Towe responded that it would probably go both ways, depending on the individual case.

Senator Hager inquired about fiscal impact. Mr. Morrison said that would be difficult to determine. He said he didn't anticipate any as nothing would be done differently as a result of the bill. Mr. Pyfer concurred in that judgment.

The hearing was closed on SB 42.

CONSIDERATION OF SB 44: Senator Towe was recognized as chief sponsor of the bill, also introduced at the request of the Department of Revenue with the quick blessings of the Revenue Oversight Committee. The bill deals with interest income received by nonresidents from installment sales of business property, and makes that income subject to taxation in Montana. Mr. Morrison was recognized and said that the bill would only give statutory force to current policy.

PROPOSERS

There were no other proposers for SB 44.

OPPOSERS

There were no opposers to SB 44.

Questions from the committee were called for.

Senator Lybeck asked why there is a distinction between residential property and business property. Mr. Morrison said that the Department intent was only to follow existing

ROLL CALL

Senate Taxation

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

8:05am Date 8 Jan 85

SENATE
SEAT

#

NAME	PRESENT	ABSENT	EXCUSED
Senator Brown	✓	✗	
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek		✓	
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

Each day attach to minutes.

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 12, 1985

The fifth meeting of the Senate Taxation Committee was called to order at 8:05 am by Chairman Thomas E. Towe in Room 415 of the Capitol Building.

ROLL CALL: All members of the committee were present.

Chairman Towe announced that fiscal notes are being prepared on all bills and should be available for the committee by Monday. He noted, however, that the fiscal impact of all bills awaiting executive action was minimal. He assured the committee that if any fiscal note indicated an unexpected impact the bill could be referred back to the committee from second reading.

MOTION: Senator Mazurek moved that SB 42 do pass. He then withdrew the motion for purposes of amendment to the bill.

Mr. Ken Morrison, Department of Revenue was recognized to discuss proposed amendments to the bill. The amendments dealt with the computation of the net operating loss, bringing Montana code into line with federal and state law.

MOTION: Senator Mazurek moved that SB 42 be amended as follows:

1. Page 1, lines 18 and 19.

Following: "(i)"

Strike: Subsection in its entirety.

Insert: "that portion of the federal income tax and motor vehicle fee allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a trade or business."

2. Page 2, line 1.

Following: ";

Strike: "and"

3. Page 2, line 3.

Following: "income"

Strike: "."

Insert: ";

4. Page 2.

Following: line 3.

Insert: "(iii) state income tax; and
(iv) any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income."

The motion passed unanimously.

MOTION: Senator Mazurek then moved that SB 42 do pass as amended. With only Senator Goodover voting no, the motion carried.

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 12 January 85 8:05

Location -- Room 413-415

Name	Present	Absent	Excused
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Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

STANDING COMMITTEE REPORT

January 12, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 42

first reading copy (white)
color

INDIVIDUAL INCOME TAX NET OPERATING LOSS DEDUCTION

Respectfully report as follows: That Senate Bill No. 42

be amended as follows:

1. Page 1, lines 18 and 19.

Following: "(i)"

Strike: Subsection in its entirety.

Insert: "that portion of the federal income tax and motor vehicle fee allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a trade or business."

2. Page 2, line 1.

Following: ";

Strike: "and"

3. Page 2, line 3.

Following: "income"

Strike: ".

Insert: ";

4. Page 2.

Following: Line 3.

Insert: "(iii) state income tax; and
(iv) ^{and} other ^{non} business deductions allowed under 15-30-121 in excess of non-business income."

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

Senator Tom Towe,

Chairman.